IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2249 OF 2002

Vasantraodada Patil Sahakari Sakhar
Karkhana Ltd. ..Petitioner.

Vs.

The Director of Sugar Maharashtra State
& Ors. ..Respondents.

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Mr. S.D. Khot for the Petitioner.
Mr. C.R. Sonawane, Assistant Government Pleader for Respondent Nos.1, 2 and 6.
Mr. P.N. Joshi for Respondent Nos.4 and 5.

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CORAM:KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

3rd April, 2006.

P.C. :

1. The Petitioner who is the Managing Director of Vasantraodada Patil Sahakari Sakhar Karkhana Ltd. has filed this Petition challenging the order dated 5th May, 2000 passed by the Secretary, Department of Co-operation & Textile, Mantralaya, Mumbai – Respondent No.5 herein, allowing the revision preferred by Respondent No.4. By the said order, the Secretary quashed and set aside the Enquiry Report dated 20th November, 1998.

2. On going through the said report it is clear that the Secretary had allowed the revision on two grounds. (1) Allegation made in the present enquiry was the subject matter in the earlier enquiry under Section 83 of the Maharashtra Co-operative Societies Act, 1960 for the period from 1987-88 to 1995-96. Respondent No.4 was exonerated from all the earlier enquiries and therefore once he is exonerated from the charges, it is not justifiable for the Court to press enquiry on the same grounds. (2) The enquiry held against Respondent No.4 is in violation of the principles of natural justice in as much as he was not actually given inspection of the documents or records to defend his case.

3. We have heard learned counsel appearing for the parties at length. The learned counsel appearing for the Petitioner was unable to dislodge the reasons given by the Secretary with respect to the findings. In fact, no rejoinder is filed to the affidavit in reply of Respondent No.4 dated 8th September, 2003. In paragraph 4 it is specifically stated that his rival group has made several attempts by filing complaints, representations and other correspondence against him before several Co-operative Officers for initiating action under Sections 83, 85, 88 and 78 of the Act on totally fake and

vague grounds with the sole intention to malign his image in the Co-operative sector and in the sugar factory and to see that he gets disqualified in the elections. He has further averred that several enquiries held right from 1988 were initiated against him with regard to purchases made by the sugar factory during his tenure from 14th May, 1988 till 1997 and also prior to it and thereafter. In those enquiries he was exonerated from all the charges as it was concluded that no loss was caused to the sugar factory. The deponent has in fact produced a list of those enquiries initiated against him. As stated above, no rejoinder is filed by the Petitioner till date. In fact the Petitioner was granted ample opportunities by this Court to controvert the facts stated in the affidavit in reply. Rightly the Petitioner has not filed the rejoinder and in ground (b) of the Petition of paragraph 13, the Petitioner has stated that even though Respondent No.4 was exonerated from the charges in previous enquiry for similar charges, upon finding substance in the complaint, Respondent No.1 has lawfully initiated enquiry since prima facie a case of misappropriation was made out. Thus, having accepted the fact that Respondent No.4 was exonerated from the charges in the previous enquiry, on the basis of a complaint the present enquiry is held against him. This

on the part of the Petitioner is nothing but an act of malafide, with a view to malign the image of the Respondent No.4. We therefore hardly see any substance in the Petition and the same is dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.